

**REMARKS**

Claims 1-42 were pending. Claims 1-9, 11-12, 14, 16-30, 32-34, and 36-42 have been amended to further clarify the nature of the claimed invention. Accordingly, claims 1-42 remain pending in the application.

Claims 1-7, 9, 10, 16, 25-28, 30, 31, 33, and 37 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Shintani (U.S. Patent No. 5,668,591; hereinafter referred to as "Shintani"). Claims 8, 11-13, 17-24, 29, 32, 38, 39 and 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shintani, in view of Kenney (U.S. Patent No. 6,026,376; hereinafter "Kenney"). Finally, claims 14, 15, 34, 35, 36, 40 and 42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shintani and the Examiner's Official Notice. Applicant respectfully traverses these rejections and requests reconsideration in view of the following discussion.

As noted above, Applicant has amended to the claims to further clarify the nature of the invention. To that end, the amendments also include amending the preamble to indicate product purchases are being facilitated during ordinary television viewing. While the additionally recited claim features, and the description in general, already support this, it is believed amendment of the preamble in this manner helps to clarify the nature of the claimed invention.

In contrast to the cited art, Applicant's claimed invention is generally directed to enabling a viewer to store information related to products or services during ordinary television viewing. As noted in the background of the present Application, a number of obstacles exist between the offering of a product or service during ordinary television programming, and a viewer making a purchase of the product or service. For example, assuming such an offering is made during ordinary television programming (e.g., an advertisement), a viewer must remember something about the product (e.g., the name of the product). Assuming the viewer remembers their interest in the product, the viewer must then go shopping for the product or service. However, the viewer may not know where to purchase the product or service or may only know of inconvenient locations for such a purchase. In some instances a viewer may seek to make the purchase online via the World Wide

Web, but here again the viewer may be forced to perform searches to find a location to purchase the product or service. Consequently, there are obstacles that exist between the ~~offerer~~-seller of a product and a potential purchaser in the ordinary television viewing context. As may be appreciated, such obstacles may not generally exist in the context of a dedicated interactive shopping channel and/or application. In such cases, the express purpose of the shopping channel and associated content is to facilitate a product purchase.

In contrast to the Applicant's presently claimed invention, the cited art discloses an entirely different system and method. For example, Shintani is directed to a mechanism dedicated for the purpose of downloading purchasing ("ordering") software, and making purchases thereby via a cable network. Kenney generally describes a virtual shopping experience. However, none of the cited art discloses or suggests the product purchasing mechanisms associated with the television programming content as recited.

Turning now to the cited art and the pending claims, it is suggested that Shintani discloses all the features of independent claims 1, 16, 25 and 37. However, Applicant respectfully submits that each of the pending claims recite features which are not disclosed by Shintani. As amended, claim 1 reads:

"A system for facilitating product purchases during television viewing in an interactive television system, the system comprising:

- a first source configured to convey television programming content;
  - a second source configured to convey data corresponding to a product which is presented within the television programming content;
  - a mechanism configured to:
    - combine said television programming content and said data; and
    - convey the combined television programming content and data as a broadcast stream; and
  - a third source configured to convey an interactive application, wherein said interactive application is executable to:
    - detect the data within the broadcast stream;
    - present an indication corresponding to the detected data during presentation of the television programming content;
    - receive user input corresponding to the indication; and
    - store information related to the product in response to receiving the user input;
- wherein the user input is received and the information stored without interrupting presentation of the television programming content."

In the above recitation, data corresponding to a product presented within television programming content is combined with the television programming content and conveyed as a broadcast stream. Also conveyed is an application which may detect the data, present a corresponding indication during presentation of the programming content, and store product information without interrupting the presentation. However, neither Shintani nor Kenney discloses all of these features.

Shintani is directed to a system for facilitating the download (and or updating) of applications which are intended for a specific purpose. Execution of such an application provides the ability to engage in a particular activity. For example, Shintani discloses:

“According to the information terminal apparatus of the present invention, as described hereinabove, it comprises an external information input port for receiving external software by radio means, a memory for storing the software received by the information input port, a controller operated in accordance with the software stored in the memory, and a display for visually representing various kinds of information in conformity with the execution of the software. Because of such constitution, the software is down-loaded every time a request is generated, so that the software can be updated in response to each request. Furthermore, maintenance of the software can be achieved with certainty as the software is distributed through a cable network. Additionally, it is rendered possible, by downloading different kinds of software, to attain another advantage of enjoying various services including games, home shopping, home banking and so forth.” (Shintani, col. 6, lines 13-28).

Shintani then describes in relation to Fig. 4 and Fig. 5 the downloading of a first program which provides a viewer the opportunity to enter into one of three modes – GAME, SHOPPING, or AUCTION. In response to selecting one of the presented options, a corresponding application is downloaded to the viewer’s device. Execution of the newly downloaded application allows the viewer to then enter the GAME, SHOPPING, or AUCTION mode. For example, Shintani discloses:

“Now the operation performed in the above-described constitution of the embodiment will be described below with reference to FIGS. 4 and 5. In the initialized cable box 1, the software downloaded for ordering an application program is stored in its memory. And in the intelligent remote control unit 10, other software is stored for selection of game, shopping or auction modes in

accordance with the ordering software, and images for selecting the application program are visually represented on the display 14 by the other software.

First, . . . a decision is made to determine which of the game, shopping and auction modes has been selected by the intelligent remote control unit 10. In case none has been selected, the result of such decision is NO, and step S2 is executed repeatedly. If a user desires to play a specified game, the user can select the game by manipulating the intelligent remote control unit 10. . . .

In response to this command, the cable box 1 down-loads, at step S4, the game program ordering software from the center via the cable network. . . .

When the user has selected home shopping, the operation proceeds from step S2 to step S6. At step S6, shopping program ordering software is downloaded to the user's intelligent remote control unit 10. . . .

In another case where the user has selected auction, the operation proceeds from step S2 to step S8 shown in FIG. 4, and an auction program is downloaded to the intelligent remote control unit 10." (Shintani, col. 4, line 58 – col. , line 67).

Accordingly, Shintani is directed to the download of specific types of applications for entering particular modes of operation. The notion of combining product data with television programming content in the manner recited is wholly absent from Shintani. Shintani is not directed to facilitating product purchases during ordinary television viewing and does not disclose features to that end. Similarly, Kenney nowhere discloses the features recited above. In contrast to television programming content as recited, Kenney is directed to creating a virtual environment which simulates pushing a shopping cart through a grocery store. Therefore, Applicant submits claim 1 is patentably distinguishable from the cited art. Further, because each of independent claims 16, 25 and 37 include features similar to that of claim 1, each of these claims is believed patentable as well. Further, as each of dependent claims 2-15, 17-24, 26-36, and 38-42 include at least the features of the independent claims upon which they depend, each of dependent claims 2-15, 17-24, 26-36, and 38-43 are patentable for at least the above reasons as well.

In addition to the above, Applicant submits each of the dependent claims recite additional features which are nowhere taught or suggested by the cited art. Some examples of such

additional features include claim 4 which further recites “wherein the television programming content comprises a movie, sporting event, and/or advertisement.” As discussed above, none of the cited art discloses this manner of television programming combined in the manner recited. Accordingly, these particular examples of types of programming are not disclosed either.

In addition, claim 5 further recites the additional features “wherein the television programming content is not created for the purpose of selling the product.” These features is wholly absent from the cited art.

Still further, claim 6 further recites the additional features “wherein the television programming content comprises a television program or movie, and wherein the product is presented during a scene of the television program or movie” which is wholly absent from the cited art.

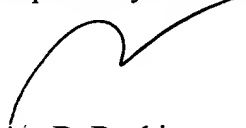
Applicant believes the application to be in condition for allowance. Should the examiner believe issues remain which would prevent the present application from proceeding to allowance, the undersigned representative requests a telephone interview at (512) 853-8866 in order to facilitate a resolution.

**CONCLUSION**

In light of the foregoing remarks, the Applicant submits that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

The Commissioner is authorized to charge any fees which may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505\5266-04000\RDR

Respectfully submitted,



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